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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/720,173	12/20/2000	Peter Johnstone	31707/207270	8867

826 7590 05/14/2003

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EXAMINER
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AHMED, SHEEBA

ART UNIT	PAPER NUMBER
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1773

8

DATE MAILED: 05/14/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

AS-8

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/720,173	JOHNSTONE, PETER	
	<b>Examiner</b>	<b>Art Unit</b>	
	Sheeba Ahmed	1773	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on 25 February 2003.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 2,5-9,11,12,15,16,18-24,26 and 27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 2, 5-9, 11, 12, 15, 16, 18-24, 26, and 27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>3</u> . | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Response to Amendment*

1. Claims 1, 3, 4, 10, 13, 14, 17, 25, and 28 have been cancelled in the above-identified application. Claims 2, 5, 6, 8, 9, 11, 12, 15, 16, 18-20 and 23, 24, 26, and 27 have been amended. **Claims 2, 5-9, 11, 12, 15, 16, 18-24, 26, and 27 are now pending.**

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 2, 5-9, 11, 12, 15, 16, 18-24, 26 and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Johnstone (WO 98/50219).

Johnstone (WO 98/50219) discloses a method for producing a stretch wrap plastic film and the storage of such plastic film, which has undergone stretching prior to storage on a roll (Page 1, lines 3-6). The film is pre-stretched to give a predetermined significant amount of memory and the amount of recoverable strain retained in the films falls within the range of about 20% to a maximum of total memory in the film (*indicating that 20 to 80% of the film is relaxed and thus meeting the limitation that the plastics material is uniformly relaxed across its cross-section transverse to the stretching direction by 20%*) (Page 2, lines 9-12 and 19-21). A method a wrapping a

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load with the plastics film is also provided and the load may be a vegetation material during the production of silage (Page 3, lines 13-15). A partially stretched film may be further stretched or re-stretched to attain the original level of stretching or in some cases even beyond the original level of stretching (Page 9, lines 1-5). With regards to the limitations that the plastics material member achieves either or both an improved resistance to degradation from UV light and an improved resistance to gas transmissivity, the Examiner takes the position that such material properties are inherently present in the stretched film disclosed by Martin-Cocher et al. given that the chemical composition of the film and the process of making such a stretched film as disclosed by Martin-Cocher et al. and that of the claimed invention are identical. Furthermore, the Examiner takes the position that the wrapped bale of silage is inherently in an anaerobic atmosphere given that the stretched film is not gas permeable. All limitations of the claimed invention are either disclosed or inherent in the above reference.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 2, 5-9, 11, 12, 15, and 21-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Martin-Cocher et al. (WO 94/04419).

Martin-Cocher et al. disclose a method of wrapping loads in a stretchable film wherein the film is pre-stretched to an elongation value of about 150 to 500% so that after relaxation it presents a tension. The film may be pre-stretched in its longitudinal or transverse direction. The invention is related to wrapping palletized loads.

Martin-Cocher do not disclose that the stretched plastics film is relaxed across its cross-section transverse to the stretching direction by between 5 and 20%.

However, it would have been obvious to one having ordinary skill in the art to optimize the amount of relaxation of the film given that Martin-Cocher specifically teach that the amount of film relaxing stabilizes the film and determines the increase in tearing resistance. With regards to the limitations that the plastics material member achieves either or both an improved resistance to degradation from UV light and an improved resistance to gas transmissivity, the Examiner takes the position that such material properties are inherently present in the stretched film disclosed by Martin-Cocher et al. given that the chemical composition of the film and the process of making such a stretched film as disclosed by Martin-Cocher et al. and that of the claimed invention are identical.

4. Claims 16, 18-20, 26, and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Martin-Cocher et al. (WO 94/04419) in view of Orpen et al. (US 5,816,026).

Martin-Cocher et al. disclose a method of wrapping loads in a stretchable film wherein the film is pre-stretched to an elongation value of about 150 to 500% so that

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after relaxation it presents a tension. The film may be pre-stretched in its longitudinal or transverse direction. The invention is related to wrapping palletized loads.

Martin-Cocher et al. do not state that the palletized load that may be wrapped with their stretched film is silage.

However, Orpen teaches that it is common practice to wrap bales of silage in a stretched plastic film provided in rolls (Column 1, lines 8-11 and 66-68 and column 2, lines 1-10).

Accordingly, it would have been obvious to one having ordinary skill in the art to use the stretched plastic film disclosed by Martin-Cocher et al. to wrap a bale of silage given that Orpen particularly teaches that it is common practice to wrap bales of silage in a stretched plastic film provided in rolls. Furthermore, the Examiner takes the position that the wrapped bale of silage must be in an anaerobic atmosphere given that the stretched film is not gas permeable.

### ***Response to Arguments***

5. Applicant's arguments filed on February 25, 2003 (Paper No. 6) have been fully considered but they are not persuasive.

Applicants traverse the rejection of all pending claims under 35 U.S.C. 102(b) as being anticipated by Johnstone (WO 98/50219) and the rejection of claims 2, 5-9, 11, 12, 15, and 21-24 under 35 U.S.C. 103(a) as being unpatentable over Martin-Cocher et al. (WO 94/04419) and submit that neither disclose any attempt to ensure that in the relaxation stage, the relaxation occurs uniformly over the entire transverse cross-

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sectional width and that the relaxation is between 5 and 20% of its total stretched length. However, the Examiner disagrees and would like to point out that Johnstone (WO 98/50219) specifically discloses that the film is pre-stretched and contains about 20% to about 80% of the total memory. In addition, the Examiner takes the position that the stretching and relaxing is substantially uniformly across the transverse cross-section given that both the stretching and the relaxing take place while the film is placed on spools or nip rollers as seen in the Figures and hence an equal amount of force is applied across the entire film. Furthermore, Martin-Cocher et al. (WO 94/04419) also employ rollers for stretching and relaxing their film and hence, in this case again, an equal amount of force must be applied across the entire film.

Applicants further direct the Examiner's attention to pages 10 to 14 of the Specification, which, the Applicants allege, illustrate the significant improvements that are achieved by relaxing the film within the range of 5 to 20% of its total stretched length. The Examiner has reviewed the experimental data provided in the Specification and would like to point out that the showing is not commensurate with the scope of the claimed range of the amount of relaxation of its total stretched length. The results set forth in the Specification compare an unstretched film with films that have been stretched and either not relaxed or relaxed 5.8%, 11%, 15.7% and 20% and indicate that a significant advantages are achieved when the relaxation level is 5% or greater than 10% of its total stretched length. However, there is no indication that the same significant advantages would not be obtained if the film is stretched over 20% and thus

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it is not established that a relaxation of 5 to 20% of its total stretched length results in unexpected results.

### ***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sheeba Ahmed whose telephone number is (703)305-0594. The examiner can normally be reached on Mondays and Thursdays from 8am to 6pm.



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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Thibodeau can be reached on (703)308-2367. The fax phone numbers for the organization where this application or proceeding is assigned are (703)305-5408 for regular communications and (703)305-3599 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)306-5665.



Sheeba Ahmed  
May 12, 2003



Paul Thibodeau  
Supervisory Patent Examiner  
Technology Center 1700